

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Auction of H Block Licenses in the 1915- 1920 MHz and 1995-2000 MHz Bands	)	AU Docket No. 13-178
	)	
	)	

**COMMENTS OF CELLULAR SOUTH, INC.**

Cellular South, Inc. (d/b/a C Spire Wireless) (“C Spire”) submits these comments in response to the Public Notice (“PN”) issued in the above-captioned proceeding.<sup>1</sup>

**INTRODUCTION**

With this PN, the Commission proposes rules for the auction of ten megahertz of paired spectrum (1915-1920 MHz and 1995-2000 MHz (the “H Block”)) in Auction 96. In allocating the H Block, the Commission should adhere closely to Congress’ recently reaffirmed principle: spectrum auctions are to be designed and implemented in a manner that promotes economic growth and competition in the wireless industry.<sup>2</sup> With Auction 96, the Commission has the opportunity to address further wireless industry consolidation while generating new opportunities

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<sup>1</sup> *Auction of H Block Licenses in the 1915-1920 MHz and 1995-2000 MHz Bands; Comments Sought on Competitive Bidding Procedures for Auction 96*, Public Notice, Docket No. 13-178 (rel. Jul. 15, 2013) (“PN”).

<sup>2</sup> *See* 47 U.S.C. § 309(j)(3)(B); Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6401, 126 Stat. 156 (2012).

for competitive operators and new entrants to spur greater innovation and access to wireless services.

## DISCUSSION

Section 6401(b) of the Spectrum Act<sup>3</sup> requires the Commission to assign H Block licenses via competitive bidding pursuant to 309(j) of the Communications Act.<sup>4</sup> Properly structured competitive bidding can produce healthy competition by enabling smaller operators to expand and new entrants to introduce services that can temper the overwhelming consolidation of the current wireless market.<sup>5</sup> The Commission should aim to maximize these benefits through auction procedures that encourage robust participation in Auction 96, including Simultaneous Multi-Round (SMR) and blind bidding; disallowance of package bidding; and establishing minimum opening bids equal to the reserve price.

### **A. A “blind” SMR Auction without package bidding enables greater auction participation and revenue.**

C Spire agrees with the Commission’s proposal to conduct a standard Simultaneous Multiple-Round (SMR) auction of the H-block spectrum without package bidding.<sup>6</sup> The SMR

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<sup>3</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6401, 126 Stat. 156 (2012) (“2012 Spectrum Act”).

<sup>4</sup> Id.

<sup>5</sup> As of 2010, per the Herfindahl-Hirschman Index (“HHI”), wireless industry consolidation measured 2,848—nearly 350 points *above* the HHI’s threshold of a “highly concentrated” market. *See* 15th Wireless Competition Report, ¶ 2.

<sup>6</sup> *See* PN at ¶¶ 16, 22.

auction should be conducted on a “blind” basis.<sup>7</sup> A blind SMR auction presents the greatest opportunity for the largest number of potential bidders to participate on relatively equal footing for each of the available H-block licenses while reducing the potential for retaliatory bidding.

But, in order for a blind SMR auction to reach its ultimate competitive potential, the package (or combinatorial) bidding rules under Commission consideration must be dropped.<sup>8</sup> Package bidding enables larger operators to acquire licenses at below market value and adds unnecessary complexity and uncertainty for bidders who are bidding for any collection of licenses that is smaller than the largest package that is being bid. As a result, package bidding has the potential to generate lower auction participation and, therefore, lower proceeds, it substantially increases the risk that smaller operators and new entrants who may place a higher valuation on a given individual license will be shut out,<sup>9</sup> and it adds an unnecessary layer of complexity that disadvantages competitive operators.<sup>10</sup>

More specifically, the Commission’s proposal to consider bids placed in previous auction rounds – even bids that were not provisionally winning after the rounds in which they were placed – in order to enable “new bids on individual licenses to combine with other bids in order to compete with bids on packages” is inordinately complex. Such a system would make it difficult, if not impossible, for bidders to know whether and when their previous rounds’ bids might be re-activated in later rounds. As the Commission acknowledges in the PN, enabling

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<sup>7</sup> See, PN at ¶¶ 24-29.

<sup>8</sup> Id. at ¶¶ 17-23.

<sup>9</sup> See, Comments of Leap Wireless at 9 and Comments of RTG at 9, *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, Docket No. 12-268 (rel. Oct. 2, 2012) (“NPRM”).

<sup>10</sup> U.S. Cellular NPRM Comments at 51-53.

package bidding would make it necessary to ban bid withdrawals, which could further discourage participation of smaller operators and new entrants with lower tolerance for risk in Auction 96.<sup>11</sup> Additionally, in order to reliably price and bid on an individual license, bidders would need to know before each round whether a package bid had been assembled. These complexities are unnecessary and, in the context of a standard SMR auction<sup>12</sup> would not provide efficiencies or economic complementarities beneficial to the overall revenue yielded by Auction 96 or the competitiveness of the resulting spectrum allocation.<sup>13</sup>

**B. Minimum opening bids that reflect the Commission's reserve price for each license would promote auction efficiency and participation.**

In order to promote efficiency in an SMR auction of the H block spectrum, the Commission should set minimum opening bids equal to its pre-determined reserve price for each license auctioned.<sup>14</sup>

This approach would serve three important ends. First, by identifying the necessary minimum opening bid ahead of the auction, the Commission will enable potential bidders to

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<sup>11</sup> See, PN at ¶ 73 (“[I]n an SMR auction with package bidding there are significant risks associated with bid withdrawals that are not present in an SMR auction without package bidding.”)

<sup>12</sup> An SMR auction without package bidding is preferable to the Commission's proposed alternative auction format: a single-round sealed bid auction. See, PN at ¶ 23.

<sup>13</sup> As C Spire has noted in the *Incentive Auction* proceeding, “the Commission should avoid repeating the mistake made with the 700 MHz Upper C block licenses.” There, large geographic license areas and package bidding procedures were used to facilitate an effortless path to a nationwide license. Very few Auction 73 participants bid for the Upper C Block licenses and, ultimately, auction revenue for the spectrum was reduced. By contrast, the smallest geographic license areas in Auction 73 – the 700 MHz Lower B Block, where package bidding was not permitted for the 734 CMAs – brought the highest price per MHz/POP of any block of spectrum. The clear lesson to be learned from the 700 MHz Upper C Block experiment is that competitive operators and virtually all other new entrants cannot realistically participate in package bidding for large, combined geographic license areas. The effect of these procedures is to effectively award those areas to the Bell incumbents for the reserve price, which shortchanges the United States Treasury and further concentrates valuable spectrum in the hands of the largest operators. See, Comments of Cellular South, Inc., *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, Docket No. 12-268 (Jan. 25, 2013).

<sup>14</sup> See, PN at ¶ 58.

evaluate fully whether they can meaningfully participate in the auction before expending the substantial resources necessary to prepare for bidding. Next, by setting the minimum opening bid at an amount equal to the Commission's reserve price, fewer auction rounds should be required (as all bidding will begin at or above the Commission's reserve price) – enabling the Commission to more quickly and efficiently award licenses and potentially reducing the amount of time between Auction 96 and the deployment of services to consumers on the H block spectrum. And last, by disclosing the reserve price (and minimum opening bid) for each license (rather than utilizing an aggregate reserve price, as proposed<sup>15</sup>), the Commission will enable greater auction participation by smaller operators or new entrants who may be focused on the purchase of only a small number of licenses or a geographically concentrated license set. Such potential bidders will be able to better evaluate the risks of auction participation if reserve pricing is (1) disclosed and (2) made certain on a license-by-license basis.

## **CONCLUSION**

The auction of the H Block spectrum for mobile broadband services is an important opportunity for economic growth and improved access for American wireless consumers. But, this opportunity is not without the significant risks evidenced by the results of other recent auctions. In the context of today's highly consolidated wireless industry, it is critical that the Commission adopt auction structures that will promote competition, rather than further consolidation.

Respectfully submitted,

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<sup>15</sup> Id. at ¶ 52.

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s/ Ben Moncrief  
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